

## FIRE CLAIM DECISION

### Judge Dole Applies an Exception to Rule of Equity.

"Where a bank holds paper for collection belonging to a person out of the jurisdiction and an assignment, by the drawee and acceptor of the paper, of a fund for the payment thereof, it may be a party to a suit of interpleader concerning such fund, without such foreign person being made a party to the proceedings."

With some technical rulings the foregoing principle of law is declared by U. S. Judge Dole in the interpleader case relating to the fire claim of See Long and others, partners in the firm of Yee Chong. While Wm. F. MacLennan, U. S. Treasury agent, is nominally plaintiff the real plaintiffs are Bishop & Co. and Cecil Brown, they holding drafts on Yokohama and Hongkong banks, respectively, accepted by the Yee Chong defendants and secured by assignment of interest in the award of the Fire Claims Commission to that Chinese firm.

The court directed that the issue of title in the money held by the nominal plaintiff, which is in the court's custody, be made. With the exception of one point, where leave is given to amend, the court overrules the demurrer of the Yee Chong defendants, holding:

"There are exceptions to the general rule in equity that all persons having a beneficial interest in the subject matter of the suit should be made parties thereto even though the legal title may be in others.

"The rule will not be enforced where it would do injustice or cause great inconvenience, but may be modified or dispensed with in such instances."

In this case it is found that such injustice and inconvenience would be worked by making the foreign banks mentioned parties. So the Yee Chong defendants are held to their assignments. District Attorney Breckons represented Agent MacLennan, Watson the firm of Yee Chong and J. J. Dunne Bishop & Co. and Cecil Brown.

## U. S. GRAND JURY MAKES FINAL REPORT

Besides the Starbuck indictments elsewhere reported the Federal grand jury returned a true bill against Esther Jacobson for undervaluing a large variety of merchandise imported from China and Japan, one against Shimizu Tosaburo and Zinnō Tsanekichi jointly for possession of a distilling apparatus, and one against Tam Pong and two against Chang Apana for crimes under the Edmunds Act.

A final report was presented by the grand jury yesterday and Judge Dole discharged it from further service. Thirty-nine true bills had been returned and in five cases investigated no bills were found.

The grand jury calls attention to the many postoffice defalcations in the Territory and suggests, in view of the distance from Washington, "that a more effective audit system be established in the Honolulu postoffice."

After a searching investigation of the question the grand jury is happy to state that there is no evidence that polygamy has ever been practiced among the Mormons in this Territory.

The usual thanks are given to the United States officers who assisted the grand jury in its investigations.

The grand jury panel consisted of Geo. C. Potter, foreman; W. O. Atwater, J. C. Curry, George Bruns, B. F. Vickers, Henry Davis, G. M. M. J. K. Dillon, C. H. Sweetzer, E. B. Carley, A. H. Jackson, M. Phillips, W. H. Babbitt, W. F. Heilbron, J. A. Lawe, M. Rosenblydt, E. E. Carrera, J. S. Martin, J. Halverson, H. Gehring, C. J. Ludwigen, J. L. Robinson, A. Coyne.

## CASE THAT QUEERED THE ORGANIC ACT

On Saturday the Supreme Court, by Chief Justice Frear, rendered a decision refusing a rehearing of the case of W. W. Bierce, Ltd., of Chicago, against C. J. Hutchins, trustee, on the same grounds as the original decision—namely, that plaintiff had elected one of two modes of relief and thereby was estopped from trying the other mode. Had it claimed the railway plant sold to the Kona Sugar Company under the contract of sale, which required full payment before ownership passed, it might have attacked the receiver's sale as being void. But, having recognized the receiver's sale by electing to place a materialman's lien on the property, it could not then bring a

suit in replevin based on the theory that it was still the owner.

Justice Wilbur signs the opinion with its author, while Justice Hartwell writes a concurring opinion in which the facts of the case are related.

This is the case that caused the plaintiff's friend, Senator Cullom and others, to have the Organic Act amended so as to permit appeals in suits involving \$5,000 or more to be taken from the Territorial to the Federal Supreme Court. It is the intention of the plaintiff to carry this latest decision on appeal to Washington.

## OFFICER PRAISES THE LOCAL ARMY CORRAL

Col. E. A. Garlington, Inspector General of the Division of the Philippines, who is next in line for appointment to the position of Inspector General of the United States Army, was here recently on his way to the Philippines. While in Honolulu he inspected the government corral at Iwilei. Col. Garlington expressed himself to Captain Humphreys, the local quartermaster, as being greatly pleased with the condition of the corral. He said that it was one of the best arranged and best kept corrals in the country. Improvements have been made recently that add further to the place and tend to make it a model corral.

It is reported that Brigadier General Thomas H. Barry has been appointed military attaché to General Llanevich's army and may pass through Honolulu soon on his way to the seat of war. As Major General MacArthur is now with Oyama's army the United States will be represented at the front by two officers of high rank. The only attaché of equal or superior rank is Lieut. Gen. Ian Hamilton who has been representing the British army with the Japanese and he is understood to be about to return home. It is unusual for American officers to outrank those of foreign armies in such places as the large number of foreign officers of high rank generally permits even a third rate power to be represented by at least a "Lieutenant General Prince Somebody."

Another army officer who may visit Hawaii soon is Quartermaster General Humphreys, father of Captain Humphreys, who is stationed here. With a party of officers he is now making a tour of inspection through Porto Rico, travelling to and from the island on a transport. Next year it is expected that he will make an inspection of the Hawaiian station and from here go to the Philippines to inspect that department.

## LET THEM TELL IT.

The Public Utterances of Honolulu Citizens Are What Count. Publicity Is What the People Want.

Let them tell it.

Let the public speak on the subject.

It means better understanding.

Means less misery in Honolulu.

Means confidence in a good thing.

Home endorsement counts.

Easier to believe your neighbors.

Than strangers in a far-away town.

Every box of Doan's Kidney Pills is backed by home testimony.

Kidney disorders—urinary troubles—

Are on the decrease here.

Doan's Backache Kidney Pills are

Relieving backs and curing cisterns.

It is their daily work.

Here's a case in point.

Cyrus S. Edison of Kaplani Park,

this city, says: "I am at present a

teamster and came to the Islands fifteen

years ago. Previous to that I drove a

stage coach in the United States.

These occupations necessitated my

being out at all seasons were no

doubt the cause of my kidney disorder.

I had the ordinary symptoms of this

complaint, and resorted to a host

of things to cure it. All of them failed

to do so, however, and when I had almost

given up hope I heard about

Doan's Backache Kidney Pills and got

some at the Hollister Drug Co.'s store.

They did indeed relieve me and I am

quite satisfied with the benefit they

have been to me."

Doan's Backache Kidney Pills are

for sale by all dealers; price 50 cents

per box (six boxes \$2.50). Mailed by

the Hollister Drug Co., Honolulu,

wholesale agents for the Hawaiian Islands.

## TIPS ON WALKING.

Steps that are quick are indicative

of energy and agitation.

Tip-toe walking symbolizes surprise,

curiosity, discretion, or mystery.

Turned-in toes are often found with

preoccupied, absent-minded persons.

The miser's walk is represented as

stooping, noiseless, with short, nervous,

anxious steps.

Where a revengeful purpose is hidden

under a feigned smile the step will be

slinking and noiseless.

Slow steps, whether long or short,

suggest a gentle or reflective state of

mind, as the case may be.

The proud step is slow and measured;

the toes are conspicuously

turned out; the legs straightened.

The direction of the steps wavering

and following every changing impulse

of the mind inevitably betrays uncertainty,

hesitation and indecision.

Obstinate people, who in argument

rely more on muscularity than on intellectual

power, rest the feet flatly and firmly

on the ground, walk heavily and slowly,

and stand with the legs firmly planted

and far apart.—Chicago Journal.

Owing to rain the May festival of

the kindergartens was postponed till

Friday.

## THE LEGISLATURE MEETS IN EXTRA SESSION

### Both Houses Preserve Their Old Organization and Show Disposition to Get Down to Business.

The legislature of 1905 met in extra session yesterday, organized, introduced the appropriation bills, passed them on first reading, and got ready for business in a most business-like way. It remains to be seen whether this spirit will continue to rule in legislative halls. If it does, there can be no question that the work of the session can be finished up in much shorter order than any sanguine body save Senator Achi has so far dared to hope.

Mr. Achi said in the Senate yesterday morning that that body could do what it had to do and get everything in cleaned up in six days. That is to hope too much. But then, on the other hand, to fear that the members will insist upon talking on for ten times six days is to fear too much, perhaps.

Both bodies of the legislature yesterday chose the same officials to serve them at the extra session who had so satisfactorily performed their duties at the regular session, the presiding officers appointed the same committees, and the Senate got itself together in record breaking time. Altogether, the first day was one of great promise.

"I hope that the legislature will take up and pass at once the departmental emergency appropriation bill," said Governor Carter yesterday, after the legislature had adjourned. "I so stated to the notification committee that waited upon me. And the Senate has taken up the measure at once. This was Senate bill 122, which failed of passage at the regular session. It is a very necessary bill. You know, nobody would stand for the schools closing, for instance, or for the Superintendent of Public Works going out of business because of a failure of his contingent fund. But I said all that to the committee."

The several committees of the two houses have already gone to work on the appropriation bills, and although the sessions of both Houses were short yesterday, all was done that could have been done, the appropriation bill having been passed on first reading.

## LEGISLATURE—EXTRA SESSION—FIRST DAY

### THE SENATE.

The Senate was called to order by Clerk Savidge yesterday morning, President Isenberg taking a seat on the floor among the members. The clerk read a communication addressed to him from the Governor informing him of the purpose to call an extra session, and followed that by reading the call. Then, on motion of Senator Achi, Dickey of Maui was named for temporary chairman and took command. Mr. Savidge was named temporary clerk and Rev. K. Kekahuina temporary chaplain. The last named gentleman, on the suggestion of the temporary chairman, offered a prayer, this being in Hawaiian.

McCandless introduced a resolution, prepared in advance, that the officers who had served the Senate at the regular session be named for like service in the extra session, and this carried unanimously. President Isenberg was at once escorted to the chair, returned thanks in a brief speech for the honor done him, and on motion of Achi swore in the officers of the Senate.

Achi moved the adoption of the old rules, which carried, and Bishop moved that the Secretary notify the House that the Senate was organized, at the same time informing it of the names of the officers of the Senate.

On motion of Paris, amended by McCandless, a committee was appointed to serve, with a like committee from the House to notify the Governor that the Legislature was organized and ready for business. Dowsett, McCandless and Brown were appointed on the committee.

Achi introduced a resolution, which passed, fixing the pay of Senate officers at the old rate, excepting that the Sergeant-at-Arms was given a raise of fifty cents a day.

### THE GOVERNOR TOLD.

The Senate then took a short recess, and immediately upon reassembling the notification committee of the House appeared at the door of the Senate chamber, where it was joined by the like committee of the Senate, the gentlemen going in a body to notify the Governor that the Legislature was organized and ready for business.

The committee returned in a few minutes, and McCandless reported that the Governor had been told the Senate was in session, and had advised the Legislature to take up the appropriation bills introduced at the regular session.

"The Governor," said McCandless, "laid special stress upon the necessity for the immediate passage of Senate Bill 122, which failed at the regular session, making appropriations for the departmental use of the Territory." This is the emergency appropriation bill. The report of the committee was received with thanks, and President Isenberg announced his list of standing committees, reading from the printed list of the committees of the regular session.

### BILLS INTRODUCED.

Dowsett introduced a bill appropriating \$6000 to pay the expenses of the session.

Bishop introduced a bill appropriating

money for salaries for Territorial officers.

McCandless introduced a departmental appropriation bill.

Achi introduced a departmental appropriation bill, being Senate Bill 122, spoken of by the Governor to the committee. Under a suspension of the rules this went to the Ways and Means Committee at once. All the other bills passed first reading by title, no reference being made to the Printing Committee until it was known what bills the House would take up.

McCandless moved the appointment of a committee of three to arrange for a division of work with the House.

"I object to that," said Achi. "It will delay work for us to wait on that committee. We can finish up all these bills in six days if we go right ahead regardless of the House."

McCandless defended his motion as a time-saving device, and Dickey approved it also, amending it so that the Senate would not be bound to do anything if it should finish its work first. The motion, as amended, carried, and McCandless, Woods and Dickey were appointed as the program committee.

An invitation to visit the exhibit of the Forestry Bureau was received and accepted.

McCandless reported that he had been notified by Representative Harris that the House would take up the current expense bill first, and then the Senate adjourned.

### THE HOUSE.

More or less refreshed by their few days' holiday, the members of the House of Representatives got down to work in fairly good order at the opening of the extra session yesterday morning.

The attendance was large, only Sheldon being absent, he having been excused by the Speaker.

Lewis of Hawaii, the member who polled the biggest vote in the First District, took the chair as of right, and called the meeting to order, while the clerk of the House read the Governor's proclamation calling the extra session.

### SAME OLD RULES.

Holstein immediately afterward submitted the following resolution:

"Be it resolved by the House of Representatives in extra session assembled on May 1st, 1905,

"1. That the rules of procedure as adopted by the House of Representatives in regular session of 1905, be and the same are hereby adopted as the rules for the extra session of 1905.

"2. That the officers therein elected in the regular session as Speaker of the House, Vice-Speaker, Clerk, Sergeant-at-Arms, Interpreter, Chaplain, Messenger and Janitor are hereby declared to be the officers of the extra session.

"3. That the Standing Committees as appointed and recognized at the regular session are hereby declared the Standing Committees of the extra session.

"4. That the pay of the officers such as Clerk, Interpreter, Messenger, Sergeant-at-Arms and Janitor shall be as prescribed during the regular session, excepting the Chaplain, who shall receive compensation as Chaplain for said extra session the sum of \$50.

"5. That the Clerk be instructed to place on file all reports of Standing and Special Committees during the regular session on petitions, memorials and resolutions, requesting appropriation of money, such files to be on the table of the extra session of the House to be disposed of in the consideration of the appropriation bills.

"6. That in order to expedite the work of the extra session, that the Speaker appoint a sub-committee of one to meet a like committee of the Senate to apportion the bills to be introduced first in the several bodies, so that the work may be equally distributed and each House get to work immediately and no loss of time unnecessarily occur.

"7. That on the adoption of this resolution a committee be appointed by the Speaker to notify the Senate and the Governor that the House of Representatives in extra session is ready to proceed with public business."

### CHAPLAIN'S PAY RAISED.

The resolution was adopted as submitted with the single amendment that the Chaplain will be paid \$75 instead of \$50.

Speaker Knudsen, who was escorted to the chair by Coelho and Andrade, appointed Fernandez, Nakuiua and Waterhouse a committee to wait on the Senate and Governor to inform them of the readiness of the House to proceed.

The House took a recess while this function was being performed. Fernandez reported on his return and the Speaker appointed Harris a committee of one to arrange with the Senate committee the apportionment of the bills.

Stenographer Kearns was unanimously reappointed.

Andrade introduced an act to make provision for the expenses of the Legislature at its extra session. The bill was read a first time by title and under suspension of the rules was made a special order of the day for second reading today.

Harris returning gave notice of the following bills which under suspension of the rules were introduced and read a first time by title:

An Act making special appropriation for the use of the Government of Hawaii during the two years which will end June 30, 1907.

An Act providing for salaries and pay of employees of the Territory.

An Act making appropriations for departmental use of the Territory.

At 11:15 a. m. the House adjourned until this morning at 10 o'clock.

## FESTIVAL AFFAIRS TAKING SHAPE

Madame Ida Gray Scott, the eminent American prima donna soprano, who has been especially engaged to sing at the coming musical festival, is expected to arrive by the S. S. Ventura tomorrow.

She has been the recipient of a wealth of extremely flattering notices in the mainland papers and the promoters of the festival are to be congratulated upon having secured the services of such a distinguished artist. Her presence will mean that Honolulu will be able to enjoy a musical treat greater than any which has fallen to their lot for a long time.

The orchestra which has been organized by Mrs. A. B. Ingalls to accompany some of the numbers will consist of Miss Ramus, Mrs. Ingalls, Messrs. Busch, Love, Carl Smith, Wichman, Marx, Dr. Ramus and several others whose names have not yet been fully determined upon.

There was a very successful rehearsal yesterday of the choruses of Kamehameha schools, Oahu College, High School, Normal School and Mills Institute. The affair took place in the Opera House in the afternoon and the choruses did some extremely creditable joint work.

On Thursday morning at 10 o'clock the contest choruses of Kailua, Kahumahu and the Royal schools will rehearse in the grandstand of the Boys' Field. The next rehearsal at the Opera House will be on Thursday evening when the band will be in attendance.

The Opera House will be decorated in such way as will allow the colors of the respective schools being conspicuous in a tasteful and elaborate whole. The plan of seats is now on view at Wall, Nichols Co. where tickets may be obtained.

### A BROKEN DOWN SYSTEM.

This is a condition (or disease) to which doctors give many names, but which few of them really understand. It is simply weakness—a break-down, as it were, of the vital forces that sustain the system. No matter what may be its causes (for they are almost numberless), its symptoms are much the same: the most prominent being sleeplessness, sense of prostration or weariness, depression of spirits and want of energy for all the ordinary affairs of life. Now, what alone is absolutely essential in all such cases is INCREASED VITALITY—VIGOR—VITAL STRENGTH AND ENERGY to throw off these morbid feelings, and experience proves that as night succeeds the day this may be more certainly secured by a course of the celebrated life-reviving tonic.

There is no other known combination. So surely as it is taken in accordance with the printed directions accompanying it, will the shattered health be restored, the EXPIRING LAMP OF LIFE LIGHTED UP AFRESH, and a new existence imparted in place of what had so lately seemed worn-out, "used up" and valueless. This wonderful medicine is purely vegetable and innocuous, is agreeable to the taste—suitable for all constitutions and conditions, in either sex; and it is difficult to imagine a case of disease or derangement, whose main features are those of debility, that will not be speedily and permanently benefited by this never-failing recuperative essence, which is destined to cast into oblivion everything that had preceded it for this widespread and numerous class of human ailments.

### THERAPION

chambers should see that the word "Therapion" appears on British Government Stamp (its is sold by the principal Chemists throughout the world). Price in England, 2/6 and 4/6. Put white letters on a red ground affixed to every package by order of His Majesty's Hon. Commissioners, and without which it is a forgery.

Solomon Meheula's trial for gross cheat, alleged to have been committed while he was clerk of the House of Representatives in 1903, is set for this morning before Judge De Bolt.

## OSTROM IS CLOSE BY

### He is Expected For the Wednesday Rally.

Committees are at work planning for the great revival campaign. There was a meeting of the executive committee last night at which details were discussed. Tonight there will be neighborhood prayer meetings in several quarters of the city. Wednesday evening the grand welcome rally for Dr. Ostrom will be held in Central Union church. Elaborate preparations are being made for this service. A chorus of forty voices is practicing and there will be special music at all the services. Copies of the hymns will be printed and put in the hands of those attending the meetings. Good progress is being made in the raising of the necessary funds and it is hoped that the money can be secured before Dr. Ostrom arrives tomorrow.

Concerning Dr. Ostrom, Dr. J. Wilbur Chapman who is at the head of the evangelistic work of the Presbyterian church, under whose nominal charge Dr. Ostrom is, wrote the following letter to the secretary of the local committee:

The Eaton, Portland, Ore.

April 10, 1905.

Rev. E. B. Turner, Central Union Church, Honolulu, H. I.

My dear Mr. Turner—Your kind letter of March 28th was forwarded to me here, and I have already replied to you suggesting the name of the Rev. Henry Ostrom, D. D., as the evangelist to labor with you and I have received your final cable in which you say "Welcome Ostrom," so all our plans are made for his coming to you. He will sail on the 27th, as he now has it in mind.

Dr. Ostrom will at once take up the matter of the preparation for the meetings, the plan which he is to carry out, etc., and will write you in detail as to his singers. The chances are that he will bring with him his own singer, Mr. John P. Hillis, to direct the chorus choir, and my own singer, Mr. Fred Butler, as soloist. Mr. Butler was formerly in opera and is counted one of the very best singers in America. He will at once attract the musical people and his spirit of consecration will lead many who would not otherwise be drawn to the services to yield themselves to Christ.

May I say that I congratulate you upon securing the services of Dr. Ostrom. He is one of the choicest men I know in this country. A preacher of wonderful ability, and as an evangelist he is second to none. You will be charmed with him, and his work will stand the test of time. He has been for years in evangelistic work and has the highest endorsement of his brethren. For the past season he has been associated with our Evangelistic Committee, and in a sense he comes to Honolulu as our representative. It gives us great pleasure to have him do so, for the work of our Committee is broadening and deepening, and we feel that we are in line with this world-wide revival movement. May God bless you richly in this campaign of yours.

Faithfully yours,

J. WILBUR CHAPMAN.

## TEACHERS ACT ON THE SALARY QUESTION

Last evening the Honolulu branch of the Territorial Teachers' Association met at the High School and passed resolutions in favor of restoring the old schedule of teachers' salaries.

Several speeches were made. The principal address was by M. M. Scott, who urged the cause of the teachers in emphatic terms. Prof. Scott's address was applauded and fairly represented the sense of the meeting. Other speeches were made, on the same lines, Supt. Davis being very happy in what he had to say, pledging himself to assist the teachers in this and all other matters for their common good. Mr. Farrington, the new commissioner, agreed with the other speakers as did Messrs. Baldwin, Taggart and Dr. Rodgers. The resolutions were sent to the Governor, the President of the Senate and the Speaker of the House.

### GIVE CHAMBERLAIN'S PAIN BALM A TRIAL.

No other liniment affords such prompt relief from rheumatic pains. No other is so valuable for deep seated pains like lame back and pains in the chest. Give this liniment a trial and become acquainted with its remarkable qualities and you will never wish to be without it. For sale by all Dealers and Druggists. Benson, Smith &amp